IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 639 OF 2006

Shri Navinchandra Aadarji Doshi. ...Applicant
V/s.
The State of Maharashtra. ...Respondent

AND

CRIMINAL APPLICATION NO. 640 OF 2006

Shri Ashraff Pirmohammed Nathani. ...Applicant
V/s.
The State of Maharashtra. ...Respondent

Shri V.V. Pai for Applicants.
Ms.Rajeshree M. Gadhavi, APP for the State.

CORAM : V.M. KANADE, J.

DATED : FEBRUARY 21, 2006

P.C. :-

. Heard learned Counsel for the applicants and learned APP for the State.

. The applicants are Directors of M/s.Classic Bakers Pvt.Ltd. which is carrying on business of manufacturing biscuits. The applicants company is registered with the Central Excise Department. It is the case of the applicants that they had received the orders from the Britania Industry Ltd. for carrying out job work of their biscuits for the period from June 2004

to December 2005 and the delivery of the last batch of the biscuits which were manufactured by the applicants company were to be delivered by 29th December, 2005. In the meantime, the officers of the Excise Department raided the premises of the applicants' factory and detained the biscuits which were manufactured on 21st November, 2005 and a direction was given to the applicants not to dispose of the said biscuits.

2. It is alleged that the applicants approached the Excise Department and they were asked to pay adhoc excise duty of Rs.3,05,000/- which was immediately paid, however, the goods which were detained were not released since the concerned officer who had passed the order of detention of goods was not available. It is submitted that thereafter several letters were written by the applicants to the Excise Department permitting them to deliver the goods to the Britania Company as per their contract. However, no reply was given by the authorities. The applicants also had paid the excise duty as demanded by the Excise Department. Since the goods were of perishable nature, the applicants

delivered the goods to the Britania company. Thereafter, a police complaint was filed by the Excise Officer for an offence punishable under Section 406 of the IPC.

3. Learned APP appearing on behalf of the State has submitted that no orders were obtained by the applicants before delivering the goods which were specifically detained and therefore, the offence under Section 406 of the IPC had been committed by the applicants.

4. It is not possible to accept the said submission. In the present case, admittedly, the goods belonged to the applicants, adhoc excise duty had been paid pursuant to the order passed by the Excise Department. Inspite of various letters being written by the applicants, no response was given the Excise authorities. Under these circumstances, in my view, prima facie case is made out for grant of anticipatory bail. At the highest, the said disposal of the perishable commodities may amount to an offence under the Excise Act.

5. Under these circumstances, the applicants, in the event of their arrest by the Boisar Police Station for the offence punishable under Section 406 of the IPC registered vide C.R.No.I-7/2006, be released on bail in the sum of Rs.25,000/- each with one or two sureties in the like amount. The applicants shall report to Boisar Police Station as and when called. The applicants may be called at reasonable hours i.e. between 11 a.m. to 5 p.m. only if it is absolutely necessary for the purpose of investigation.

. The application is disposed of in the above terms.

(V.M. Kanade, J.)